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Report of the International Criminal Tribunal for the Prosecution of Persons Responsible for Genocide and Other Serious Violations of International Humanitarian Law Committed in the Territory of Rwanda and Rwandan Citizens Responsible for Genocide and Other Such Violations Committed in the Territory of Neighbouring States between 1 January and 31 December 1994

Security Council
Sixty-third year

Report of the International Criminal Tribunal for Rwanda

Note by the Secretary-General

The Secretary-General has the honour to transmit to the members of the General Assembly and to the members of the Security Council the thirteenth annual report of the International Criminal Tribunal for Rwanda submitted by the President of the International Criminal Tribunal in accordance with article 32 of its statute (see Security Council resolution 955 (1994), annex), which states:

> "The President of the International Tribunal for Rwanda shall submit an annual report of the International Tribunal for Rwanda to the Security Council and to the General Assembly."

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Letter of Transmittal

1 August 2008

Excellencies,

I have the honour to submit the thirteenth annual report of the International Criminal Tribunal for the Prosecution of Persons Responsible for Genocide and Other Serious Violations of International Humanitarian Law Committed in the Territory of Rwanda and Rwandan Citizens Responsible for Genocide and Other Such Violations Committed in the Territory of Neighbouring States between 1 January and 31 December 1994 dated 1 August 2008 to the General Assembly and the Security Council, pursuant to article 32 of the statute of the International Tribunal.

Please accept, Excellencies, the assurances of my highest consideration.

(*Signed*) Charles Michael Dennis **Byron**
President

President of the General Assembly
United Nations
New York

President of the Security Council
United Nations
New York

Thirteenth annual report of the International Criminal Tribunal for the Prosecution of Persons Responsible for Genocide and Other Serious Violations of International Humanitarian Law Committed in the Territory of Rwanda and Rwandan Citizens Responsible for Genocide and Other Such Violations Committed in the Territory of Neighbouring States between 1 January and 31 December 1994

Summary

The present annual report outlines the activities of the International Criminal Tribunal for Rwanda for the period from 1 July 2007 to 30 June 2008.

It illustrates the absolute commitment of the Tribunal to meeting the completion strategy targets while respecting due process.

Three trial judgements concerning three accused were delivered, including one case for false testimony and one case of guilty plea, bringing to 36 the total number of persons whose judgements have been completed at the first instance. Two single-accused cases were referred to France. The evidence phase in the trials against 6 persons was completed, bringing the total in judgement writing phase to 10 accused in 7 cases. Trials are in progress against 19 persons in 4 multi-accused cases and in 2 single-accused cases commenced during the reporting period.

Three detainees await trial, including two accused arrested late in 2007 and early in 2008. A third fugitive was arrested at the end of 2007 and awaits completion of the judicial process in the country of apprehension for his transfer to the Tribunal.

Of the five Prosecutor's requests for referral to Rwanda, three were denied, while two others are pending. The Prosecutor has already filed notice of appeal against two decisions.

In addition to many interlocutory decisions and pretrial orders, the Appeals Chamber rendered 3 judgements concerning 5 accused, bringing to 25 the total number of persons whose judgments have been completed at the appellate level.

The Office of the Prosecutor continued to focus on securing the arrest of the remaining fugitives with the successful arrest of two accused. It sought the referral of five cases to Rwanda for trial and provided assistance in Rwandan trial proceedings.

The Registry maintained high-level administrative and judicial support to the Tribunal. It ensured the cooperation and assistance of Members States with the Tribunal and conducted a diverse range of capacity-building activities in Rwanda. Through its Press and Public Affairs Unit and Legal Library and Reference Section, the Office of the Registrar actively promoted the work of the Tribunal. The various Units and Sections of the Judicial and Legal Services Division provided continuous support to trial proceedings. The Division of Administrative Support Service adopted essential measures for managing and monitoring the downsizing process of the Tribunal.

As a result of the combined efforts of the three organs of the Tribunal, the Tribunal substantially complied with its completion strategy, while upholding trial fairness and the rights of the accused. The evidence phase of all the trials of which the Tribunal had been seized in 2003, with the exception of the *Karemera et al.* trial and the four cases earmarked for transfer to domestic jurisdiction, will conclude in 2008, although judgement writing in some will spill over into 2009. The recent arrest of three high-level accused required an adjustment of the projections of the Tribunal for the completion of its trial work. This additional workload can be completed in the next year.

The cooperation and support of States is paramount to the success of the completion strategy, including for the arrest of indictees at large, relocation of acquitted persons and referral of cases. Sufficient resources must be provided for the completion of the work.

Contents

		Paragraphs	*Page*
I.	Introduction	1–2	5
II.	Activities of the Tribunal	3–73	5
	A. Activity of the President	4–6	5
	B. Activity of Chambers	7–53	6
	C. Activity of the Office of the Prosecutor	54	15
	D. Activity of the Registry	55–73	16
III.	Conclusion and recommendations	74–77	19
Annexes			
I.	Trial Chambers		21
II.	Appeals Chamber		23

I. Introduction

1. The thirteenth annual report is submitted to the General Assembly and Security Council by the President of the International Criminal Tribunal for the Prosecution of Persons Responsible for Genocide and Other Serious Violations of International Humanitarian Law Committed in the Territory of Rwanda and Rwandan Citizens Responsible for Genocide and Other Such Violations Committed in the Territory of Neighbouring States between 1 January and 31 December 1994, pursuant to article 32 of the statute of the Tribunal. It outlines the activities of the Tribunal for the period from 1 July 2007 to 30 June 2008.

2. The three organs of the Tribunal have maintained a high level of performance, moving expeditiously to the completion of its work. Achieving the goals set by the completion strategy does not come easily. The support and cooperation of States remain paramount to those goals, as recommended hereafter.

II. Activities of the Tribunal

3. The Tribunal consists of three Trial Chambers, one Appeals Chamber, the Prosecutor and a Registry. Since 29 May 2007, Judge Dennis Byron (Saint Kitts and Nevis) has served as President and Judge Khalida Rachid Khan (Pakistan) as Vice-President.

A. Activity of the President

1. Judicial activity

4. During the reporting period, the President issued several orders assigning cases to Trial Chambers sections, including requests for referral of cases to domestic jurisdictions; rendered two decisions denying special conditions of detention of one accused, and one decision ordering the enforcement of the sentence of one accused in Italy.

2. Completion strategy

5. In coordination with the Prosecutor and the Registrar, the President has concentrated on the expeditious and efficient completion of the work of the Tribunal. On 10 December 2007 and 4 June 2008, the President, along with the Prosecutor, presented the six-month completion strategy reports to the Security Council. Those reports demonstrate that the workload of the Tribunal is under control and that different measures are continuously taken to ensure completion of its work at the earliest date possible, while upholding trial fairness and the rights of the accused. They also show that the Tribunal is already downsizing while having substantially complied with its completion strategy, despite unforeseen circumstances beyond its control.

3. Diplomatic relations and other representation

6. The President maintained regular contact with United Nations Headquarters and the diplomatic community, providing regular and detailed information on the progress and challenges in the completion of the work of the Tribunal. This also

provided an opportunity to capture their views and concerns as the Tribunal moves towards the end of its activities. The Office of Legal Affairs provided great support to the work of the Tribunal, especially concerning the prompt appointment of ad litem judges to Trial Chambers.

B. Activity of Chambers

1. Composition of the Chambers

7. The Chambers are composed of 16 permanent judges and nine ad litem judges. Nine permanent judges sit in the three Trial Chambers, while seven permanent judges sit in the Appeals Chamber.

8. Each Trial Chamber to which ad litem judges are assigned may be divided into sections of three judges each, composed of both permanent and ad litem judges. A section of a Trial Chamber has the same power and responsibilities as a Trial Chamber. Pursuant to article 12 quater of the statute, ad litem judges are not eligible to preside over a Trial Chamber. The different compositions of the three Trial Chambers during the reporting period appear in annex I to the present report.

9. The Appeals Chamber is common with the International Criminal Tribunal for the Former Yugoslavia. Two permanent judges of the Tribunal have been assigned to the Appeals Chamber, in accordance with article 13 of the statute. The full composition of the Appeals Chamber appears in annex II. For each appeal, the Appeals Chamber is composed of five judges.

2. Principal activity of the Trial Chambers and the Appeals Chamber

(a) Trial Chamber I

10. During the reporting period, Trial Chamber I rendered one judgement, engaged in judgement writing in two cases, heard evidence in one ongoing trial, and attended to pretrial matters in several further cases. It rendered a decision on one request for referral of a case for trial to a domestic jurisdiction and attended to matters in relation to an additional referral request.

i. One judgement in one single-accused case

11. On 7 December 2007, the Chamber convicted *François Karera* (former *préfet* of Kigali-Rural) of genocide and extermination and murder as crimes against humanity based on his participation in the killing of Tutsis in April and May 1994. He was sentenced to imprisonment for the remainder of his life. The judgement is under appeal.

ii. Two judgements in writing process

Bagosora et al.

12. The trial, involving four co-accused (*Théoneste Bagosora*, former Director of Cabinet and Minister of Defence; *Gratien Kabiligi*, former Brigadier-General in the Armed Forces of Rwanda (FAR); *Aloys Ntabakuze*, former FAR Battalion Commander and *Anatole Nsengiyumva*, former Lieutenant-Colonel in FAR), concluded after 408 trial days, during which 242 witnesses testified and 1,584

exhibits were tendered into evidence. Judgement is expected in 2008. During this reporting period, the Chamber delivered one written decision.

Renzaho

13. On 6 September 2007, the Defence case in the trial of *Tharcisse Renzaho* (former *préfet* of Kigali-ville) closed. In all, the parties called 53 witnesses during 49 trial days. Closing arguments were heard on 14 and 15 February 2008. Judgement is expected in 2008. During this reporting period, the Chamber delivered three decisions.

iii. One ongoing trial

14. The Prosecution case against *Hormisdas Nsengimana* (Catholic priest), which commenced on 22 June 2007 and during which 19 witnesses were heard over 20 trial days, closed on 7 February 2008. The Defence case commenced on 2 June 2008 and will conclude in July 2008. Judgement is expected in 2008. During this reporting period, the Chamber delivered nine written decisions.

iv. Referrals

15. On 6 June 2008, the Chamber denied the Prosecutor's request to refer the case of *Gaspard Kanyarukiga* (businessman) to Rwanda. The Chamber was principally concerned that Kanyarukiga may not be able to call witnesses residing outside Rwanda to the extent and in a manner which will ensure a fair trial. The defence may also face problems in obtaining witnesses residing in Rwanda, who may be afraid to testify. Finally, if sentenced to life imprisonment, the accused may risk solitary confinement owing to unclear legal provisions in Rwanda. The decision is under appeal. An additional request to refer the case of *Jean-Baptiste Gatete* (former *Bourgmestre* of Murambi) to Rwanda is under consideration. During this reporting period, the Chamber rendered more than 20 decisions in both cases, including consideration of amici curiae requests from the Republic of Rwanda, the Kigali Bar Association, Human Rights Watch, the International Criminal Defence Attorneys Association, Association des avocats de la défense auprès le TPIR (International Criminal Tribunal for Rwanda), and Ibuka and Avega.

v. Pretrial matters

16. The Chamber held status conferences and addressed pretrial matters in six other cases, including in the *Setako* case, which is scheduled to commence before Trial Chamber I in August 2008.

(b) Trial Chamber II

17. In this reporting period, Trial Chamber II issued one judgement, completed one single-accused case, which is in judgement-writing, and closed evidence in one multi-accused case. At the end of the reporting period, 3 trials involving 11 accused are ongoing before Trial Chamber II.

i. One judgement in one single-accused case

18. Following a guilty plea agreement with *Juvénal Rugambarara* (*Bourgmestre* of Bicumbi *commune* from August 1993 to July 1994), the Prosecutor filed an amended

indictment on 2 July 2007. At the further appearance held on 13 July 2007, being satisfied that the guilty plea was informed and unequivocal, made freely and voluntarily, and based on sufficient facts, the Chamber found Rugambarara guilty of extermination as a crime against humanity. A sentencing hearing was held on 17 September 2007. On 16 November 2007, the Chamber sentenced Rugambarara to 11 years' imprisonment.

ii. One judgement in writing process

19. *Emmanuel Rukundo* (Chaplain) commenced and completed his defence during the reporting period. Between 9 July and 22 October 2007, 32 defence witnesses testified over 38 trial days. Closing arguments were heard on 20 February 2008. The Chamber rendered 28 written and oral decisions. The judgement is expected soon.

iii. One case involving four co-accused awaiting closing arguments to be heard

20. Since the last report, the two remaining co-accused commenced and completed the presentation of their evidence in the *Bizimungu et al.* case. The proceedings resumed on 13 August 2007 with the commencement of the defence for *Jérôme-Clément Bicamumpaka* (Minister of Foreign Affairs and Cooperation from 9 April to mid-July 1994). His defence case closed on 12 February 2008, although some remaining witnesses, who were not available earlier, testified in April 2008. In all, the Chamber heard 25 witnesses for Bicamumpaka, including the accused. The defence for *Prosper Mugiraneza* (Minister of Civil Service from 9 April to mid-July 1994) conducted its case from 18 February through 11 June 2008, during which the Chamber heard 46 witnesses for Mugiraneza, including the accused. During this period, the Chamber also heard a Prosecution witness recalled for further cross-examination. The evidence in this case is now closed, subject to pending motions seeking reconsideration of issues relating to Mugiraneza's witness list. The Chamber sat for a total of 96 trial days and rendered more than 50 written and oral decisions. The Chamber will conduct a site visit in Rwanda in October 2008 and hear the closing arguments in December 2008. Judgement will be delivered in 2009.

iv. Three ongoing trials involving eleven accused

Butare

21. During this reporting period, in addition to the three defence cases already completed (*Pauline Nyiramasuhuko*, former Minister of Family and Women's Development; *Arsène Shalom Ntahobali*, alleged leader of an *Interahamwe* group in Butare in April 1994; and *Sylvain Nsabimana*, *préfet* of Butare from 19 April to 17 June 1994), two defence cases were completed and the last accused commenced the presentation of his evidence.

22. *Alphonse Nteziryayo* (*préfet* of Butare from 17 June to July 1994) closed his defence on 9 July 2007 save for one witness, who could not be located at the time. Later on, Nteziryayo decided not to call that witness. The Chamber heard 23 Nteziryayo defence witnesses, including the accused. The defence for *Joseph Kanyabashi* (former *bourgmestre* of Ngoma *commune* in Butare) made its opening statement on 10 July 2007. The first witnesses were called just after the judicial recess, on 20 August 2007. Kanyabashi's case closed on 20 May 2008 after calling 23 witnesses, save for one witness, who was unavailable to testify at that time. Over the same period, the Chamber heard the last witness for Ntahobali, who had been

unavailable to testify earlier, by video-link. The defence for *Élie Ndayambaje* (former *bourgmestre* of Muganza *commune* in Butare) made its opening statement on 20 May 2008. Thus far, 10 of the listed 30 witnesses have testified. It is anticipated that Ndayambaje will close his defence in 2008. During this reporting period, the Chamber sat for 136 days and rendered 33 written and oral decisions. It is anticipated that the case will be closed in 2008, with judgement drafting extending into 2009.

Ndindiliyimana et al.

23. During the reporting period, the first co-accused (*Augustin Bizimungu*, former Chief of Staff of the Rwandan Army) completed his case, which started during the last reporting period; the second co-accused (*Augustin Ndindiliyimana*, former Chief of Staff of the *Gendarmerie nationale*) commenced and completed his defence; and the third co-accused (*François-Xavier Nzuwonemeye*, former Commander of the Reconnaissance Battalion within the Rwanda Army) commenced his case.

24. Between 16 October and 14 December 2007, the Chamber heard 42 Bizimungu defence witnesses, including the accused. Ndindiliyimana commenced his case on 16 January 2008 and closed it on 23 June 2008 after calling 39 witnesses, including the accused. On the same day, Nzuwonemeye commenced the presentation of his case. Thus far, four Nzuwonemeye witnesses have testified. During the reporting period, the Chamber sat for 82 trial days and rendered 39 written and oral decisions. The defence for the last co-accused *Innocent Sagahutu* (former Second-in-command, Reconnaissance Battalion within the Rwanda Army) is anticipated to commence in 2008. Judgement drafting will continue into 2009.

Bagaragaza

25. As a result of the revocation of the referral of his case to the Netherlands (see para. 35 below), and after several joint requests by the Prosecutor and the accused for special conditions of detention, *Michel Bagaragaza* (Director of a tea factory in 1994) was transferred to Arusha on 20 May 2008. His trial will commence soon. Judgement is expected in 2008.

(c) Trial Chamber III

26. During this reporting period, Trial Chamber III rendered one judgement, transferred the cases of two accused to a domestic jurisdiction, closed evidence and commenced judgement-writing in three single-accused cases, continued trial proceedings in one multi-accused case and commenced trial in one single-accused case. One case of contempt of court is scheduled to commence shortly. One case referral was revoked, two requests for referral were denied and one other request is pending, while the Chamber attended to pretrial matters in one case.

i. One judgement

27. On 4 December 2007, Trial Chamber III found a former witness in the *Kamuhanda* trial, known under the pseudonym GAA, guilty of giving false testimony under solemn declaration and contempt of the Tribunal. He was sentenced to nine months' imprisonment.

ii. Two single-accused cases transferred to a domestic jurisdiction

28. On 20 November 2007, Trial Chamber III granted the Prosecutor's requests to refer the cases of *Laurent Bucyibaruta* (former *préfet* of Gikongoro) and *Wenceslas Munyeshyaka* (clergy) to France. Since then, in accordance with the Chamber's orders, the Prosecutor has filed confidential reports on the conduct of the proceedings by the French authorities against the accused.

iii. Three judgments in writing process

Nchamihigo

29. *Siméon Nchamihigo* (former *substitut du Procureur*) completed his defence during the reporting period. Over 16 trial days, the Chamber heard 20 defence witnesses. The parties made closing arguments on 23 January 2008. During this period, the Chamber delivered 24 written and oral decisions. Judgement is expected shortly.

Bikindi

30. *Simon Bikindi* (composer and singer of popular music) closed his defence on 7 November 2007. Thirty-seven defence witnesses testified over 28 trial days, including the accused. The Chamber conducted a site visit in Rwanda from 14 to 18 April 2008. The parties presented closing arguments on 26 May 2008. During this reporting period, the Chamber delivered 15 written and oral decisions. Judgement is expected in the next months.

Zigiranyirazo

31. *Protais Zigiranyirazo* (businessman) concluded his defence on 4 December 2007. The six remaining defence witnesses were heard over six trial days. The Chamber conducted a site visit in Rwanda from 12 to 16 November 2007. The parties delivered closing arguments on 28 and 29 May 2008. This year, the Chamber delivered seven written and oral decisions. Judgement is expected in the next months.

iv. Two ongoing trials involving four accused

Karemera et al.

32. The prosecution case closed on 4 December 2007. The defence case for the first of the three co-accused (*Edouard Karemera*, former Minister of Interior) was scheduled to commence on 10 March 2008. However, the Chamber postponed trial until 7 April 2008 to allow the accused further time and facilities for the preparation of his case, and the Prosecutor further time to conduct investigations and prepare for cross-examination. Furthermore, owing to exceptional circumstances, the same composition of Trial Chamber III had to be assigned to another single-accused trial which was ready to commence over the same period (Callixte Kalimanzira, see para. 33 below). Judicial calendars in both cases therefore had to be adjusted. From 7 April until 15 May 2008, the Chamber sat 23 trial days, recalling 3 prosecution witnesses and hearing 9 Karemera defence witnesses. It further heard evidence, via video-link, from a defence witness for the third co-accused (*Joseph Nzirorera*, former President of the National Assembly), who could not testify at a later date. The defence for the second co-accused (*Mathieu Ngirumpatse*, former President of

the Mouvement républicain national pour le développement et la démocratie (MRND)) will commence in 2008, followed by the defence for Nzirorera. Judgement delivery is anticipated in 2009. During this reporting period, the Trial Chamber delivered more than 160 written and oral decisions.

Kalimanzira

33. Considering the 2008 judicial calendar of the Tribunal, and to prevent postponement of this trial and serious delay in the completion objectives of the Tribunal, the section of Trial Chamber III already sitting in the *Karemera et al.* case (see para. 32 above) was reassigned to the case of *Callixte Kalimanzira* (former acting Minister of Interior). The prosecution case took place from 5 May until 22 May 2008, resumed on 16 June 2008 and concluded on 30 June 2008. The Chamber heard 24 prosecution witnesses over 16 trial days. The defence case is expected to be completed in 2008, with judgement to be delivered in the first half of 2009. During this reporting period, the Chamber delivered 15 written and oral decisions.

v. One case of contempt scheduled to commence shortly

34. On 24 December 2007, the Prosecutor indicted *Léonidas Nshogoza*, a former defence investigator in the *Kamuhanda* trial, charging him with contempt of the Tribunal. A Trial Chamber III Judge confirmed the indictment and issued a warrant for his arrest. The accused surrendered on 8 February 2008. He pleaded not guilty on all counts. His trial is scheduled to commence and conclude, with judgement delivery, in the second half of 2008.

vi. Referrals

Bagaragaza

35. On 7 August 2007, at the Prosecutor's request, the Chamber revoked the referral of *Michel Bagaragaza* to the Netherlands. This was prompted by a Dutch District Court decision finding that it has no jurisdiction in a case involving a Rwandan accused of genocide allegedly committed in Rwanda in 1994. Bagaragaza's trial at the Tribunal is scheduled for completion in 2008 (see para. 25 above).

Munyakazi

36. On 28 May 2008, after hearing the parties and four amici curiae, the Chamber denied the Prosecutor's request to transfer the case of one detainee (*Yusuf Munyakazi*, former *Interahamwe* leader) to Rwanda. The Chamber found that the applicable sentence to the crimes alleged against Munyakazi, life imprisonment in isolation, precluded the referral of his case. It was not satisfied either that, upon referral, the accused's rights to an independent tribunal and to obtain the attendance and examination of witnesses would be guaranteed. That decision is pending appeal. The Chamber sat one day, hearing the parties and amici curiae. It delivered 12 decisions.

Hategekimana

37. On 19 June 2008, the Chamber denied the Prosecutor's request to transfer the case of *Ildephonse Hategekimana* (former Lieutenant, Commander of Ngoma Camp), currently detained in Arusha, to Rwanda. After hearing the parties and four amici curiae, the Chamber was not satisfied that Rwandan law criminalizes command responsibility, nor that Rwanda could ensure Hategekimana's right to obtain attendance and examination of witnesses on his behalf under the same conditions as those against him. The Chamber also considered it possible that Hategekimana could face life imprisonment in isolation without adequate safeguard of his right not to be subjected to cruel, inhuman and degrading punishment. During this reporting period, the Chamber delivered seven decisions.

Kayishema

38. The Prosecutor's request to refer the case of one fugitive (*Fulgence Kayishema*, former inspector of police) is pending before Trial Chamber III. This year, the Chamber rendered nine decisions in that case, including regarding amici curiae requests from the Republic of Rwanda, the Kigali Bar Association, Human Rights Watch, International Criminal Defence Attorneys, and *Association des avocats de la défense auprès le TPIR*.

vii. Pretrial matters

39. Trial Chamber III is overseeing the trial-readiness of the *Hategekimana* case. The Chamber has delivered three pretrial decisions.

(d) Appeals Chamber

40. During the reporting period, the Appeals Chamber was seized of appeals on 5 judgements, 7 interlocutory appeals, 18 motions for review or reconsideration, and 4 motions concerning referral. The Appeals Chamber rendered 3 judgements, 7 interlocutory decisions, 15 decisions related to review or reconsideration, 1 decision concerning referral, and 65 pre-appeal orders and decisions.

i. Appeals from Judgement

Simba

41. Trial Chamber I found *Aloys Simba* (retired lieutenant colonel, former member of parliament) guilty of genocide and extermination as a crime against humanity and sentenced him to 25 years' imprisonment. The Appeals Chamber heard the parties on 22 May 2007 in Arusha. In its judgement of 27 November 2007, the Appeals Chamber dismissed Simba's appeal as well as the Prosecutor's appeal and affirmed Simba's convictions and sentence.

Nahimana et al.

42. Trial Chamber I found *Ferdinand Nahimana* (member of the steering committee which established *Radio Télévision Libre des Mille Collines*), *Jean-Bosco Barayagwiza* (member of the steering committee which established *Radio Télévision Libre des Mille Collines*; former Director of Political Affairs at the Ministry of Foreign Affairs) and *Hassan Ngeze* (founder and editor-in-chief of the newspaper Kangura) guilty of conspiracy to commit genocide, genocide, direct and

public incitement to commit genocide, and persecution and extermination as crimes against humanity. The Appeals Chamber heard the parties from 16 to 18 January 2007 in Arusha. In its judgement of 28 November 2007, while the Appeals Chamber affirmed some of the convictions against the accused, it also reversed some of the convictions against each of them. Consequently, the Appeals Chamber replaced Nahimana's sentence of life imprisonment with a sentence of 30 years, Barayagwiza's sentence of 35 years' imprisonment with a sentence of 32 years, and Ngeze's sentence of life imprisonment with a sentence of 35 years.

Seromba

43. Trial Chamber III convicted *Athanase Seromba* (priest) of genocide and extermination as a crime against humanity and sentenced him to 15 years' imprisonment. The Appeals Chamber heard the parties on 26 November 2007 in Arusha. In its judgement of 12 March 2008, the Appeals Chamber quashed the finding that Seromba aided and abetted genocide by certain acts and held that he committed genocide and extermination as a crime against humanity by virtue of his role in the destruction of a church and the consequent death of the approximately 1,500 Tutsi refugees sheltering inside. The Appeals Chamber affirmed that Seromba aided and abetted genocide in relation to killings of two people. Consequently, the Appeals Chamber quashed the sentence imposed by the Trial Chamber and entered a new sentence of life imprisonment.

Muvunyi

44. Trial Chamber II convicted *Tharcisse Muvunyi* (Lieutenant colonel, École des sous-officiers) for genocide, direct and public incitement to commit genocide, and other inhumane acts as a crime against humanity and sentenced him to 25 years' imprisonment. The Appeals Chamber was prepared to hear the merits of the appeals on 27 November 2007, but postponed the hearing upon emergency application, owing to the unavailability of lead counsel because of sudden illness. The Appeals Chamber heard the parties on 13 March 2008 in Arusha. Judgement is anticipated soon.

Karera

45. *François Karera* filed his notice of appeal on 14 January 2008 against the Trial Chamber judgement (see above, para. 11). All the parties' briefs are now filed and the appeal is being prepared for a hearing.

ii. Interlocutory Appeals: most significant decisions

Kanyabashi (Butare case), Decision on Joseph Kanyabashi's Appeal against the Decision of Trial Chamber II of 21 March 2007 concerning the Dismissal of Motions to Vary his Witness List, 21 August 2007

46. On 21 August 2007, the Appeals Chamber dismissed *Joseph Kanyabashi's* interlocutory appeal of a Trial Chamber decision denying the accused leave to expand his witness list and ordering him to file a revised list of witnesses containing not more than 30 witnesses. The Appeals Chamber found that the Trial Chamber properly considered whether reducing the number of witnesses would allow Kanyabashi the opportunity to present an adequate defence.

Karemera et al., Decision on Nzirorera's Interlocutory Appeal concerning his Right to be Present at Trial, 5 October 2007

47. On 5 October 2007, the Appeals Chamber granted *Joseph Nzirorera's* interlocutory appeal of a Trial Chamber decision denying his request to stay the proceedings in his absence due to ill health. The Appeals Chamber found that in the circumstances of this complex and lengthy case, a three-day delay of the trial was insufficient to outweigh the statutory right of an accused person to be present at his trial when the absence is due to no fault of his own.

Karemera et al., Decision on the Prosecution's Interlocutory Appeal concerning Disclosure Obligations, 23 January 2008

48. On 23 January 2008, the Appeals Chamber dismissed the prosecution's interlocutory appeal of two Trial Chamber decisions, one granting an accused's request to inspect certain witness statements in the possession of the prosecution, and the other denying the prosecution's request for reciprocal disclosure. The Appeals Chamber found no error in the Trial Chamber's conclusion that the requested witness statements were material to the preparation of the defence since their inspection may assist the accused in assessing the witness's credibility before deciding to add the witness to his list. In respect of the request for reciprocal disclosure, the Appeals Chamber emphasized that the right of reciprocal disclosure under rule 67(C) of the Rules of Procedure and Evidence applies only to material which the defence intends to use as evidence at trial. The Appeals Chamber affirmed the Trial Chamber's decision denying the request for reciprocal disclosure because the prosecution did not show that the defence intended to use the requested material as evidence at trial.

Karemera et al., Decision on Joseph Nzirorera's Appeal from Decision on Tenth Rule 68 Motion, 14 May 2008

49. On 14 May 2008, the Appeals Chamber granted *Joseph Nzirorera's* interlocutory appeal of a Trial Chamber decision finding that a certain document was not exculpatory. The Appeals Chamber stated that the correct test for determining whether certain material is to be considered as exculpatory within the meaning of rule 68 of the Rules of Procedure and Evidence is "whether there is any possibility, in light of the submissions of the parties, that the information could be relevant to the defence of the accused". Applying this test to the facts of the case, the Appeals Chamber held that the document in question was subject to disclosure.

iii. Motions for review or reconsideration (most significant decisions)

Rwamakuba, Decision on Appeal against Decision on Appropriate Remedy, 13 September 2007

50. On 13 September 2007, the Appeals Chamber dismissed *André Rwamakuba's* appeal of a Trial Chamber decision denying him compensation for alleged injustice related to his lengthy detention and allegedly tainted prosecution. The Appeals Chamber found no error in the Trial Chamber finding that it lacked authority to award compensation to Rwamakuba for his acquittal. Furthermore, the Appeals Chamber held that Rwamakuba did not substantiate his claim that he suffered injustice because he was indicted and prosecuted on allegedly false evidence and because of his pretrial detention. The Appeals Chamber also affirmed the Trial

Chamber's decision to award Rwamakuba $2,000 as compensation forming part of a remedy for the violations of his rights to legal assistance and initial appearance without delay.

Niyitegeka, Decision on Third Request for Review, 23 January 2008

51. On 23 January 2008, the Appeals Chamber denied *Eliézer Niyitegeka's* third request for review of the Appeal Judgement rendered in his case on 9 July 2004. The Appeals Chamber determined that Niyitegeka did not identify any new facts for purposes of review.

Ngeze, Decision on Hassan Ngeze's Motions and Requests related to Reconsideration, 31 January 2008 and Decision on Hassan Ngeze's Motion of 25 February 2008, 3 March 2008

52. On 31 January 2008 and 3 March 2008, the Appeals Chamber denied five motions brought by Hassan Ngeze in connection with a request for the Appeals Chamber to reconsider its judgement rendered in his case on 28 November 2007. The Appeals Chamber held that the statute of the Tribunal does not provide for reconsideration of final judgements.

Nahimana, Decision on Ferdinand Nahimana's Notice of Application for Reconsideration of Appeal Decision Due to Factual Errors Apparent on the Record, 21 April 2008

53. On 21 April 2008, the Appeals Chamber dismissed *Ferdinand Nahimana's* request for reconsideration of a point in the Appeal Judgement rendered in his case on 28 November 2007. The Appeals Chamber recalled that the statute of the Tribunal does not provide for reconsideration of final judgements.

C. Activity of the Office of the Prosecutor

54. During the reporting period, the Office of the Prosecutor arrested two high-level accused whose trials are expected to commence in 2008. The Office of the Prosecutor issued, for the first time, an indictment against one witness for giving false testimony and an indictment against a former investigator for contempt of court. It further filed five applications for orders referring the cases of four accused and one fugitive to Rwanda for trial. The Office of the Prosecutor has appealed the Trial Chambers' decisions denying three of these requests (see above). Following investigations by both the Office of the Prosecutor and the Office of the Prosecutor General of Rwanda, four senior Rwandan Army officers are prosecuted in Rwanda for war crimes. The Office of the Prosecutor has sent a representative to observe those proceedings. The Office of the Prosecutor continues to receive and to respond to requests for mutual legal assistance from national jurisdictions investigating for prosecution or extradition of Rwandan fugitives appearing on the International Criminal Police Organization (ICPO-INTERPOL) wanted list. The Office of the Prosecutor continued the hunt for the remaining 13 fugitives and particularly 4 high-level accused including Félicien Kabuga.

D. Activity of the Registry

1. Office of the Registrar

55. The Immediate Office of the Registrar maintained high-level diplomatic contacts with States and international organizations. Through formal and informal agreements, it secured their cooperation with the Tribunal in support to the smooth running of trials. During this reporting period, there was a significant increase in judicial cooperation with Members States. More than 294 notes verbales and correspondence requesting judicial assistance and cooperation from Member States for defence teams have been sent compared to approximately 120 during the previous year.

56. The Republic of Rwanda continued to cooperate with the Tribunal in facilitating the flow of witnesses from Kigali to Arusha and providing relevant documents to trial proceedings. In addition, on 4 March 2008, the Registrar signed an agreement on enforcement of sentences between the Republic of Rwanda and the United Nations.

57. One convicted person was transferred to Italy this year pursuant to the President's decision. The Registrar has taken action in connection with the designation of the States in which the remaining 20 convicted persons would serve their sentences. Assistance in renovating 14 and 23 cells was provided in detention facilities in Mali and Benin, respectively.

58. Two acquitted persons remain under the Tribunal's protection, despite the Registrar's strenuous efforts to find a country of residence for them. This issue, as well as that of the relocation of those convicted persons who will complete their sentence, is becoming increasingly crucial as the Tribunal moves towards its completion and requires the continuous support and cooperation of States.

59. The Protocol Support Services witnessed an almost 400 per cent increase in the number of persons visiting the Tribunal in the second half of 2007, compared to the previous period. The Tribunal has hosted the Under-Secretary-General for Legal Affairs, the United States Ambassador-at-Large for War Crimes, and numerous government ministers, as well as civil society representatives, human rights advocates, members of the Rwandan Genocide Survivors' Association and university students.

60. The Press and Public Affairs Unit continued to contribute to internal circulation of Tribunal-related media reports as well as to a wide diffusion of the Tribunal's activities through press briefings and press releases, its website, films and informational brochures, including case profile lists and posters. The Unit processed numerous local and international media enquiries and broadcasted several trial proceedings via satellite signal for use by media professionals and the public. It launched exhibitions on the work of the Tribunal in the United Republic of Tanzania, Rwanda and Uganda and organized the annual drawing and essay competition on the Tribunal for primary and secondary school students in Rwanda and the United Republic of Tanzania. A formal communication link was established with Universities in Kenya, Uganda, Burundi, Rwanda and the United Republic of Tanzania, and presentations on the work of the Tribunal were made at two East African Media Summits.

61. Through its Outreach Programme, the Tribunal conducted various workshops aimed at strengthening the Rwandan judicial capacity in areas such as international criminal law, advocacy skills, online legal research, rights of the accused, including law on indictments, and court information management. Two seminars on international criminal law were organized during the reporting period, each of them involving 20 Judges from the Rwandan Supreme and Appeals courts. Fifty members of the Rwandan Bar Association were taught on international criminal law and practice, and a group of 35 Rwandan prosecutors and legal officers in the Parquet Général were trained in information and evidence management, prosecution strategies and advocacy skills. Sessions involving 140 Rwandan prosecutors were organized, and more than 287 Rwandan students and 69 legal professionals attended training seminars on online legal research. Under the annual programme of research fellowship awards, six students from the National University of Rwanda spent eight weeks at the Tribunal conducting research in connection with the Tribunal's jurisprudence and international law under the supervision of staff members of the Tribunal from various sections. Workshops on the activities of the Tribunal and its contribution to the justice and reconciliation process in the country were conducted targeting specifically Rwandans living in rural areas and youths in secondary and higher institutions, including approximately 15,000 Rwandan students and teachers. All sessions and workshops were generously funded by the European Commission.

62. Under the coordination of the Special Adviser to the Registrar on Gender Issues, several online discussions with other agencies on sexual exploitation and abuse sensitivity guidance were implemented in addition to basic gender analysis training, and on-site gender training for mid-level and senior legal personnel has been undertaken. Sessions on gender sensitivity in the management of victims for security sector personnel are planned for mid-2008.

63. The Legal Services and Internship Programme Unit received a total of 175 interns. About 150 of them were legal interns assigned to the Office of the Prosecutor, Trial Chambers and Defence Teams. Ten legal researchers funded by the Voluntary Tribunal Trust Fund were assigned to Trial Chambers and the Office of the Prosecutor. The Unit is also in charge of liaising with the Office of Legal Affairs on specific legal issues.

2. Judicial and Legal Services Division

64. The Court Management Section provided support services to the Chambers and other stakeholders in the judicial process, including site visits in Rwanda and video-link hearings from various countries. The system for instantaneous production of transcripts was consolidated and presented throughout Africa, as part of capacity-building initiatives solicited by States. The user friendliness of the judicial records system was enhanced by converting all documents into full-text searchable material. The digitization and redaction of the collection of audio-visual recordings of the proceedings of the Tribunal was successfully initiated. The Court Management Section also conducted specialized sessions to strengthen the capacity of the Rwandan court system and maintained assistance in running the Legacy and Capacity-Building Committees of the Tribunal.

65. The Defence Counsel and Detention Management Section provided support to the various defence teams and detainees in Arusha. The Section improved the management system of fees and expense payment requests by creating an electronic,

web-based system allowing electronic filing and management of the requests. A lump-sum system for the payment of fees has also been introduced based on the different steps in trial proceedings. The system limits resources by hours or money for the pretrial and appeal stages. During trial, Counsel are allowed daily resources depending on whether they are attending hearings at the Tribunal.

66. During this reporting period, two prisoners were released after serving their respective sentences of six years and nine months of imprisonment and one prisoner was transferred to Italy to serve his sentence. As a result, as of 30 June 2008, the United Nations Detention Facility housed a total of 56 persons (36 detainees and 20 convicted persons), including two new detainees recently arrested and transferred to the Tribunal, one detainee whose referral to the Netherlands was revoked following his release and one convictee witness from Mali. Over the same period, the United Nations Detention Facility has received 28 detained witnesses from Rwanda called to testify in various trials. The International Committee of the Red Cross visited the United Nations Detention Facility on 7 November 2007 and 20 May 2008 and concluded that it conforms to international standards.

67. During this reporting period, the Witness and Victims Support Section ensured the timely availability of a total of 321 witnesses, who were brought from 27 countries in support of 11 trials involving 24 accused persons. Seven vulnerable witnesses were relocated. In accordance with protective measures ordered by the Trial Chambers, transcripts were redacted to expunge identifying information of witnesses or their family members, prior to making them public. The Witness and Victims Support Section has intensified its post-trial monitoring activities in the countries of residence of witnesses who appeared before the Tribunal. Several witnesses residing in Rwanda enjoyed a wide range of assistance aimed at improving their medical and psychological rehabilitation. The Witness and Victims Support Section was successful thanks to the cooperation of several States, which provided temporary travel documents enabling the witnesses to travel to and from Arusha, and UNHCR agencies in a number of African countries which assisted in facilitating the movement and the protection of witnesses. Some States, like Belgium, provided further assistance in escorting witnesses.

68. The Language Services Section has continued to provide interpretation, translation and reproduction services to the Chambers, the parties and the Registry. In addition, in the light of the completion strategy, a roster-building campaign aimed at selecting suitable simultaneous interpreters from various countries is scheduled for July-August 2008 with a view to pre-empting any potential disruption of the smooth running of trials.

69. The main achievement of the Legal Library and Reference Section during the reporting period is the release of a comprehensive full-text searchable International Criminal Tribunal for Rwanda Basic Documents and Case Law DVD (1995-2006), which is included in a web database that will then be updated. That tool seeks to promote access to the work of the Tribunal and its legacy. As part of the contribution of the Tribunal to capacity-building in Rwanda, trainings on online research methods and library/information management benefited more than 400 participants including Judges, Bar Association and Prosecution lawyers and law students. The Library also conducted a course on ICTs in libraries at the Kigali Institute of Education, and increased the collection of the Umusanzu International

Criminal Tribunal for Rwanda Information Centre library in Kigali in order to respond to the growing demand of Rwandan users.

3. Division of Administrative Support Services

70. Proper planning, control and monitoring of the utilization of the available resources of the Tribunal have continued to be a priority of the Division of Administration. As at 31 May 2008, the Tribunal had 879 staff members on board against an authorized complement of 1,032 posts, with 153 vacant posts, or a 14.8 per cent vacancy rate. Based on the separation notices received to date, this rate is expected to increase to 15.3 per cent as at the end of June, and if the current trend continues throughout the rest of the year, the vacancy rate is anticipated to be 15.1 per cent by the end of 2008. The staff gender proportion as of 31 May 2008 was 62 per cent for male and 38 per cent for female. Staff members in the Tribunal come from 86 countries. There was continued staff turnover. As the Tribunal downsizes, the Division of Administration has provided assistance in developing criteria to be used for determination of the number and composition of the staff to be retained to undertake the Tribunal's work to completion.

71. The Tribunal has launched several staff development programmes in order to enhance skills, support staff retention measures and improve productivity. Following the establishment of the Career Resource Centre, several career support programmes have been organized to assist staff. In addition to an aggressive recruitment policy, the Tribunal, with the support of the United Nations Secretariat, initiated a number of non-monetary incentives aimed at retaining staff until their posts are no longer needed and the mandate of the Tribunal is fully realized.

72. The Health Services, Counseling and Welfare Units continued to provide close medical follow-ups, long-term treatments for detainees and staff members as well as trauma counselling to the witnesses. The Counseling Unit offered professional psychological support to staff and their families, including emergency psychological sessions, and prepared and distributed regular bulletins on self-care and well-being to all staff.

73. In line with the completion strategy of the Tribunal, the General Services and Support Section developed a comprehensive liquidation plan, including repatriation of personnel, closure of offices and final disposal of assets of the Tribunal. Through improved collaboration with the relevant local authorities of the host country and United Nations security coordinator, the Security and Safety Section has embarked on reviewing security measures to improve efficiency and adequacy.

III. Conclusion and recommendations

74. The Tribunal is committed to fully discharging its mandate as effectively and efficiently as possible. Its workload is under control and moving fairly and expeditiously towards completion. Thanks to the concerted efforts of the three organs of the Tribunal, with the support of their dedicated staff, there has been remarkable progress in trial proceedings over the last 12 months. Consequently, the Tribunal has substantially complied with its completion strategy and begun its drawdown process. Two permanent judges assigned to the Trial Chambers and one ad litem judge will complete their assigned cases and resign by the end of 2008. No

arrangements for their replacement are considered necessary given the current and anticipated workload.

75. The Tribunal has additionally demonstrated its capacity to smoothly incorporate the additional workload caused by the three recent arrests and the revocation of the transfer of one case, without creating unjustified and excessive delay in the completion of its trial work.

76. These unforeseen developments require, however, adjustment of the terms of office of some judges. This matter has been brought to the attention of the Member States. Their continued assistance and cooperation remain paramount to the successful accomplishment of the vital mission of the Tribunal to fight against the impunity of those responsible for war crimes, crimes against humanity and genocide. The Tribunal therefore calls upon Member States:

(a) To provide sufficient resources to enable it to complete its work and mandate to bring to justice the persons most responsible for genocide and violations of international humanitarian law in Rwanda in 1994;

(b) To assist and cooperate in the arrest and transfer of the 13 remaining fugitives;

(c) To assist the Tribunal to resettle individuals acquitted by the Tribunal and those who have served their sentence;

(d) To remain receptive to discussions relating to the possible transfer of cases to their respective jurisdictions for trial;

(e) To continue to facilitate the travel of witnesses to and from the seat of the Tribunal, particularly in cases where witnesses do not have the required travel documents.

77. The Tribunal expresses its appreciation to the Member States for their steadfast support, which is crucial to the accomplishment of its work.

Annex I

Trial Chambers

Trial Chamber I

Judges E. Møse, Jai R. Reddy and Sergei A. Egorov

Bagosora et al. (4 co-accused) (judgement drafting)

Judges E. Møse, Sergei A. Egorov and Florence R. Arrey

Karera (judgement delivered)

Renzaho (judgement drafting)

Nsengimana (ongoing trial)

Kanyarukiga (referral — denied)

Gatete (referral)

Trial Chamber II

Judges William H. Sekule, Arlette Ramaroson and Solomy B. Bossa

Butare (6 co-accused) (ongoing trial)

Judges Asoka de Silva, Seon Ki Park and Taghrid Hikmet

Rugambarara (judgement delivered)

Rukundo (judgement drafting)

Ndindiliyimana (4 co-accused) (ongoing trial)

Bagaragaza (ongoing trial)

Judges Khalida R. Khan, Emile F. Short, Lee G. Muthoga

Bizimungu et al. (4 co-accused) (evidence completed)

Trial Chamber III

Judges Dennis C. M. Byron, Gberdao G. Kam and Robert Fremr

Nchamihigo (judgement drafting)

Judges Inés M. Weinberg de Roca, Florence R. Arrey and Robert Fremr

Bikindi (judgement drafting)

Judges Inés M. Weinberg de Roca, Khalida R. Khan and Lee G. Muthoga

Zigiranyirazo (judgement drafting)

Judges Dennis C. M. Byron, Gberdao G. Kam and Vagn Joensen

GAA (judgement delivered)

Karemera et al. (3 co-accused) (ongoing trial)

Kalimanzira (ongoing trial)

Judges Inés M. Weinberg de Roca, Lee G. Muthoga and Robert Fremr

Bucyibaruta (referral — granted)

Munyeshyaka (referral — granted)

Munyakazi (referral — denied)

Kayishema (referral)

Judges Khalida R. Khan, Asoka de Silva and Emile F. Short

Hategekimana (referral — denied)

Judges Dennis C. M. Byron, E. Møse and Lee G. Muthoga

Bagaragaza (referral — revoked)

Annex II

Appeals Chamber

Judge Fausto Pocar

Judge Mohamed Shahabuddeen

Judge Mehmet Güney

Judge Liu Daqun

Judge Andrésia Vaz

Judge Theodor Meron

Judge Wolfgang Schomburg